

1 POLLUTION CONTROL HEARINGS BOARD

2 OF THE STATE OF WASHINGTON

3 THE BOEING COMPANY,) PCHB NO. _____
4)
5) NOTICE OF APPEAL OF THE NPDES
6 Appellant,) AND STATE WASTE DISCHARGE
7 vs.) INDUSTRIAL STORMWATER GENERAL
8) PERMIT
9 WASHINGTON STATE)
10 DEPARTMENT OF ECOLOGY,)
11)
12 Respondents,)
13

14 Notice of Appeal

15 1. The Appellant is:

16 The Boeing Company
17 P.O. Box 3707 MC 13-08
18 Seattle, WA 98124-2207

19 The Appellant's Representative is:

20 Peter E. Hapke
21 The Boeing Company
22 Office of the General Counsel
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27 2. The parties are The Boeing Company ("Boeing") and the Respondent is the
28 Washington State Department of Ecology ("Ecology").

29 3. The decision appealed from is the Industrial Stormwater General Permit (the
30 "Permit"), issued by Ecology on August 21, 2002. A copy of the Permit is
31 attached as Exhibit A.

Department of Ecology
Water Quality Division

SEP 20 2002

Dewey Wilson
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1 4. Statement of Grounds for Appeal

2 Ecology erred in issuing this Permit in violation of the federal Clean Water
3 Act and its implementing regulations, and the Washington State Clean Water
4 Act and its implementing regulations. Specifically, but without limiting
5 Boeing's appeal of other Permit provisions, the Permit unlawfully prohibits
6 the discharge of non-storm water to the storm water system in Section
7 S3(B)(2) of the Permit, where Ecology defined "illicit discharges" in
8 Appendix 2 of the Permit to mean "any discharge that is not composed
9 entirely of Stormwater except discharges pursuant to a separate NPDES
10 permit and discharges resulting from fire fighting activities." The Permit's
11 prohibition of is overly broad and exceeds Ecology's authority under the
12 federal Clean Water Act and state law. This prohibition of such discharges
13 will cause Boeing to unjustly incur millions of dollars in costs on an annual
14 basis.

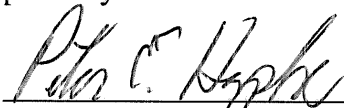
15 5. Statement of Facts to Sustain Grounds for the Appeal

16 See the Permit attached as Exhibit A. By way of example of the prohibitive
17 cost impact to Boeing of the "illicit discharge" provisions of the Permit, at
18 Boeing's Auburn facility, the Uniform Fire Code requires that Boeing train
19 fire personnel and test and maintain fire fighting and protection equipment
20 periodically throughout the year. This activity alone uses thousands of
21 gallons of clean, potable water from the City of Auburn water system. Other
22 non-storm water is generated at Auburn from utility vaults and air conditioner
23 condensate. This water cannot be discharged to the sanitary sewer because of
24 POTW restrictions. Boeing will incur costs at the Auburn facility of
25 approximately \$1.4 million dollars per year to comply with this Permit
26 prohibition on discharge to the storm sewer. It is estimated that the total
27 compliance costs for Boeing's Puget Sound facilities is approximately \$10
28 million dollars per year.

1 6. Relief Requested

2 Boeing respectfully requests that this Board rule that Ecology exceeded its
3 authority in issuing this Permit. Specifically, concerning the "illicit
4 discharge" sections of the Permit, Boeing requests that the Board amend the
5 Permit to eliminate this prohibition on non-storm water discharges and
6 substitute the reasoned approach adopted by the Environmental Protection
7 Agency ("EPA") in its Multi-Sector General Permit ("MSGP") at Part 1.2.2.2.
8 The MSGP -- EPA's model general industrial storm water permit --
9 conditionally authorizes non-storm water discharges that are prohibited under
10 this Permit.

11 Respectfully submitted this 20th day of September, 2002

12 

13 Peter E. Hapke, WSBA # 23159
14 Representative of The Boeing Company